

ISSUE DATE: March 11, 1998

DOCKET NO. E-294,145/SA-98-66

NOTICE AND ORDER FOR HEARING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayner
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the City of Preston's Petition
for Approval of an Adjustment of its Service
Boundaries with Tri-County Electric
Cooperative

ISSUE DATE: March 11, 1998

DOCKET NO. E-294,145/SA-98-66

NOTICE AND ORDER FOR HEARING

PROCEDURAL HISTORY

On January 12, 1998 the City of Preston (the City) filed a petition under Minn. Stat. § 216B.44 stating its intention to extend its assigned service area to include specified areas within its city limits annexed between 1986 and the present. All annexed areas lie within the assigned service area of Tri-County Electric Cooperative (Tri-County). The petition asked the Commission to adjust the City's service area boundaries to include these areas and to determine appropriate compensation to Tri-County for service rights within the areas.

On February 11, 1998 the Department of Public Service filed comments recommending a contested case proceeding to determine compensation. Neither party opposed the Department's recommendation.

The matter came before the Commission on February 26, 1998.

FINDINGS AND CONCLUSIONS

I. Jurisdiction and Referral for Contested Case Proceedings

The Commission has jurisdiction over assigned service area disputes under Minn. Stat. §§ 216B.37-.44. The Commission has jurisdiction to determine compensation for municipal utility acquisitions of other utilities' service territories under Minn. Stat. § 216B.44.

The Commission finds that it cannot determine, on the basis of the record before it, the amount of compensation due Tri-County for service rights to these areas. That determination turns on specific facts which are best developed in formal evidentiary proceedings. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

II. Issues to be Addressed

Minn. Stat. § 216B.44 requires consideration of the following factors in determining compensation in municipal acquisition cases: the original cost of any property acquired by the municipality, depreciation on such property, loss of revenue by the displaced utility, expenses resulting from integration of facilities, and other appropriate factors.

The parties shall address the above issues in the course of contested case proceedings.

III. Procedural Outline

A. Administrative Law Judge

The Administrative Law Judge assigned to this case is Phyllis A. Reha. Her address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 341-7602.

B. Hearing Procedure

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7829.0100-7829.3200. Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155; (612) 297-3000.

Under these rules parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing. Failure to appear at the hearing may result in facts and issues being resolved against the party who fails to appear.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions. They should take note that any material introduced into evidence may become public data unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2.

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal

disposition under Minn. Rules, part 1400.5900 should be directed to Dennis Ahlers, Assistant Attorney General, 700 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101; (612) 296-0410.

The times, dates, and places of evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and the parties.

C. Intervention

Current parties to this proceeding are the City of Preston, Tri-County Electric Cooperative, and the Department of Public Service. Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

D. Prehearing Conference

A prehearing conference, which may be conducted by telephone, will be scheduled by the Administrative Law Judge. The Office of Administrative Hearings will notify all parties of its time, date, and place.

Parties and persons intending to intervene in the matter should attend the conference, prepared to discuss time frames and scheduling. Other matters which may be discussed include the locations and dates of hearings, discovery procedures, settlement prospects, and similar issues.

E. Ex Parte Communications

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

ORDER

1. A contested case proceeding shall be held to determine the compensation due Tri-County Electric Cooperative for the City of Preston's acquisition of service rights to the areas referenced in the City's petition.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (612) 297-4596 (voice), (612) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).